

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEROY FEARS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 10-315
)	Judge McVerry
)	Magistrate Judge Bissoon
PENNSYLVANIA DEPARTMENT OF)	
CORRECTIONS, <i>et al.</i> ,)	
)	
Defendant.)	

MEMORANDUM ORDER

Leroy Fears (“Plaintiff”) is incarcerated at the State Correctional Institution at Greene (SCI-Greene), located in Waynesburg, Pennsylvania. Plaintiff has filed a civil rights action pursuant to the provisions of the Civil Rights Act of 1871, 42 U.S.C. § 1983, alleging violations of his rights under the First, Eighth, and Fourteenth Amendments to the Constitution of the United States. (Doc. 1-2) ¶ 44. This case was referred to United States Magistrate Judge Cathy Bissoon for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules for Magistrates.

On September 9, 2010, Defendants filed a partial motion to dismiss (Doc. 52) and a partial answer (Doc. 57). Plaintiff responded to the motion to dismiss on October 13, 2010. (Docs. 62 – 63). On June 14, 2011, the magistrate judge issued a report and recommendation (Doc. 67), recommending that the motion to dismiss be granted in part and denied in part. Plaintiff filed timely objections on June 28, 2011. (Doc. 68).

After *de novo* review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 1st day of July, 2011,

IT IS HEREBY ORDERED that Defendants' partial motion to dismiss (Doc. 52) is GRANTED in part and DENIED in part.

IT IS FURTHER ORDERED that Plaintiff's claim against Defendant Grim based on denial or delay of medical care is DISMISSED with PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff's Eight Amendment claims against Defendants Grim and Santoyo arising out of the investigation of Plaintiff's administrative grievance are DISMISSED with PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff's claims against all Defendants based on alleged deprivations of Plaintiff's rights under the First and Fourteenth Amendments are DISMISSED with PREJUDICE.

IT IS FURTHER ORDERED that all claims against Defendants Beard, Santoyo, and Folino are DISMISSED with PREJUDICE. These Defendants are terminated from this suit.

IT IS FURTHER ORDERED that Plaintiff's motion to amend his complaint (Doc. 42) is DENIED as legally futile.

IT IS FURTHER ORDERED that Plaintiff's motion requesting a limitation (Doc. 49) is DENIED.

IT IS FURTHER ORDERED that the report and recommendation of June 14, 2011 (Doc. 67) is adopted as the opinion of this Court.

BY THE COURT:

s/Terrence F. McVerry
TERRENCE F. McVERRY
UNITED STATES DISTRICT JUDGE

cc:

LEROY FEARS
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175 Progress Drive
Waynesburg, PA 15370

All counsel of record